

penalty charges the same as the regular tax bill.

(Code 1970, § 16-6)

#### **Sec. 18-7. Ratproofing when building is constructed, repaired or remodeled.**

No person shall construct, repair or remodel any building, dwelling, or other structure whatsoever, unless such construction, repair or remodeling shall render the structure ratproof.

(Code 1970, § 16.7)

#### **Sec. 18-8. Storage of feed.**

All feed used for chickens, cows, pigs, horses and other animals shall be stored in rat-free and ratproof containers, compartments or rooms, unless stored in a ratproof building.

(Code 1970, § 16-8)

#### **Sec. 18-9. Accumulation of garbage, rubbish or trash.**

No person shall deposit or permit to accumulate any garbage, rubbish, or trash in any building or on any premises, improved or vacant, or on any open lot or alley so that the same shall or may afford food or harborage for rats. Containers must be of metallic or heavy plastic material, and be provided with tight-fitting covers.

(Code 1970, § 16-9)

#### **Sec. 18-10. Emergency abatement of rat infestation.**

Whenever the director of health finds that a public health emergency exists due to rat infestation of any structure or premises which is likely to cause the spread of plague, typhus fever, rat-bite fever or other disease to residents, he may summarily abate such condition without prior notice to owners or occupants.

(Code 1970, § 16-10)

#### **Sec. 18-11. Effect of non-compliance.**

Upon failure of the owner or occupant of a building to comply with notice to abate rat infestation given by the director of health, the city shall have the authority to take whatever measures are deemed necessary by the director of health to remedy the condition found to exist, and the cost and expense thereof shall constitute a lien upon the real property upon which such work is done.

(Code 1970, § 16-11)

### **Chapter 19 PLANNING\***

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**\*Cross references:** Buildings and building regulations, Ch. 7; fire prevention and protection, Ch. 8; flood and erosion control; Ch. 9; housing, Ch. 13; parks and recreation, Ch. 17; streets, sidewalks and public places, Ch. 21; utilities, Ch. 23.

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Art. I. In General, §§ 19-1--19-15  
Art. II. Plan Commission, §§ 19-16--19-30  
Art. III. Conservation Commission, §§ 19-31--19-39  
Art. IV. Housing Site Development Agency, §§ 19-40--19-44  
Art. V. Economic Development Revolving Loan Fund, §§ 19-45--19-49  
Art. VI. Building Zone Regulations, §§ 19-50--19-70  
Art. VII. Subdivisions, §§ 19-71--19-100  
Art. VIII. Zoning Board of Appeals, §§ 19-101--19-107

## ARTICLE I. IN GENERAL

Secs. 19-1--19-15. Reserved.

## ARTICLE II. PLAN COMMISSION\*

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**\*Charter references:** Plan commission, § 3101.

**State law references:** Municipal planning commission, G.S. §§ 8-18--8-30a; creation of planning commissions, G.S. § 8-19; plan of development, G.S. § 8-23; requirement that municipal improvement proposals must be referred to planning commission, G.S. § 8-24; requirement that proposals concerning subdivisions of land be approved by planning commission, G.S. § 8-25; requisite of approval of subdivision plans by planning commission, G.S. § 8-26; appeals from planning commission, G.S. § 8-30; municipal redevelopment generally, G.S. §§ 8-124--8-139; authority for urban renewal projects. G.S. § 8-141; urban renewal plan, G.S. § 8-142; powers of redevelopment agency, G.S. § 8-143; powers of municipality concerning urban renewal, G.S. § 8-144; state aid for city redevelopment and urban renewal, G.S. §§ 8-151--8-162; federal aid for city redevelopment and urban renewal, G.S. §§ 8-163--8-169.

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### Sec. 19-16. Meetings.

The city plan commission shall meet regularly at 7:30 p.m. on the first Monday of each month. When necessary, special meetings may be scheduled upon the call of the chairman.

(Code 1970, § 2-289)

### Sec. 19-17. Alternate members.

- (a) *Appointment.* The mayor shall appoint three (3) alternate members to the city plan commission for a term of three (3) years and each shall serve until his successor shall be appointed and qualified.
- (b) *Powers.* Such alternate members, when seated, shall have all the powers and duties set forth in the general statutes or any special act relating to the city for such commission or its members.
- (c) *Qualifications.* An alternate member must be an elector of the city and shall not be a

member of any other commission or of the zoning board of appeals.

- (d) *Functions.* If a regular member of the city plan commission is absent or if he is disqualified, the chairman of the commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(Code 1970, § 2-290)

### **Sec. 19-18. Membership.**

There shall be in the City of New Britain a city plan commission, composed of seven (7) electors of said city, two (2) of whom shall be appointed annually by the mayor. Any vacancy occurring before the expiration of the full term term of an appointed member shall be filled by the mayor for the remainder of such term pursuant to section 5-2(e) of the Charter. The commission shall, each June, designate a chair from its membership and shall adopt rules for the transaction of business. The commission shall meet at least once each month and shall keep a public record of its activities and in reporting its action upon any matter referred to it by the common council, shall report the number voting for it and the number voting against it. No member of the commission shall vote on any measure in which he shall have any special pecuniary interest. The commission shall file an annual report with the mayor and common council summarizing the findings and recommendations made by the commission during the preceding year.

(Ord. of 7-01; No. 26897-1, 12-11-02)

### **Sec. 19-19. Master plan.**

It shall be the duty of the commission to prepare, adopt and amend a master plan for the City of New Britain embodying its recommendations for the development of the city in such manner as to best promote health, safety and general welfare as well as efficiency and economy in the process of development. The master plan shall include but shall not be limited to the following:

- (1) The commission's recommendation for the most desirable future use of land within the municipality for residential, recreational, commercial, industrial and other purposes; for the most desirable density of population in the several parts of the municipality;
- (2) The general future location, character and extent of all streets and other public ways, bridges, parks, parkways, squares, playfields, playgrounds and recreational facilities, and the removal, relocation, widening, narrowing, vacating or changing of the use thereof;
- (3) The general future location of all municipally owned buildings and structures including off-street parking facilities; for the general location and extent of public utilities and terminals whether publicly or privately owned; and the removal, relocation, vacation, abandonment, change of use, alteration and extension thereof;
- (4) The general proposed locations for slum clearance, public housing projects and

neighborhood rehabilitation projects;

- (5) A revision of the existing zoning map which shall be consistent with the proposed development of the city;
- (6) Such other recommendations may be made by the commission and included in the plan as will, in its judgment, be beneficial to the municipality. The plan shall be based on studies of physical, social, economic and governmental conditions and trends.

(Ord. of 7-01)

#### **Sec. 19-20. Publicity and development of plan.**

It shall be the duty of the commission to promote public interest in and understanding of the general plan, and to that end it may publish and distribute copies of the plan or any report relating thereto and use such other means of publicity as it may deem proper. All public officials shall upon request furnish to the commission within a reasonable time such available information as it may require for its work. The commission may request additional assistance for special survey work, in which case the mayor may, at his discretion, assign to the commission members of the staff of any city department or direct such department to make such special studies. The commission shall work cooperatively with other city and town plan commissions in areas adjacent to the city in order to promote better understanding and planning of common physical problems. The commission in the performance of its duties may enter upon any land in the city for the purpose of making examinations and surveys. No statue, monument, memorial or other work of art shall be accepted by the city as a gift, or purchased to be placed or erected in any street, park, square or other outdoor public place in the city, until the design thereof has been submitted to the plan commission for its suggestions and recommendations.

(Ord. of 7-01)

#### **Sec. 19-21. Adoption of master plan.**

The commission may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan corresponding with major geographical or topographical sections of the city or with functional subdivisions of the subject matter of the plan, and may from time to time adopt amendments or extensions or additions thereto. Before the adoption of the plan or any part thereof, or any amendment thereof, or any amendment, extension or addition thereto, the commission shall file in the office of the town clerk a copy of such plan or part thereof, or amendment thereto, and shall hold at least one public hearing thereon, at least fifteen (15) days' notice of the time and place of which shall be given by publication at least once in a daily newspaper of general circulation in the city, as well as being posted on the City of New Britain website, which notices shall make reference to the filing of such records in the office of the town clerk. The action of the commission shall be taken by the vote of not less than a majority of its members in the form of a resolution which shall expressly constitute part of the plan. Any plan or part thereof or amendment thereto shall, upon adoption by the commission, be filed in the office of the town clerk and shall become effective at a time established by the commission not less than sixty (60) days after such filing, provided notice thereof shall be published in a newspaper having general circulation in the municipality prior to such effective date and provided the common council shall not have disapproved said plan, part thereof or amendment.

(Ord. of 7-01; Ord. No. 28482-2, 5-5-05)

### **Sec. 19-22. Effect of adoption.**

From and after the adoption of the general plan or part thereof by the common council, no action shall be taken by any municipal agency or legislative body except in accordance with the following: No street or other public way shall be accepted, widened, narrowed or vacated; no park, parkway, square, playfield, playground or recreational or off-street parking facility acquired or developed; or public building or structure, and no public utility, whether publicly or privately owned, shall be constructed, removed, relocated, vacated, abandoned, altered or extended in the city or in the planned section or sections thereof, until and unless the general location, character and extent thereof has been submitted to the commission for a report. All proposals for the acquisition of land within or without the corporate limits of the city for public purposes and the sale of any public building or land shall likewise be submitted to the commission for a report. The commission shall, within a reasonable time, report its action in any of the instances above enumerated to the common council which shall have power to overrule such action by a majority vote. The approval of the commission shall not be required in the case of pipes or conduits in any existing street or other public way, nor for the pavement of or other work in any existing street or public way.

(Ord. of 7-01)

### **Sec. 19-23. Capital improvement program.**

All recommended capital projects or improvement programs pursuant to article XI of the city charter shall be submitted to the city plan commission for a report.

(Ord. of 7-01)

Secs. 19-24--19-30. Reserved.

## **ARTICLE III. CONSERVATION COMMISSION\***

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**\*State law references:** Conservation commissions, G.S. § 7-131a.

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### **Sec. 19-31. Creation and composition.**

There shall be a conservation commission composed of seven (7) electors of the city, not more than four (4) of whom shall be members of any one political party.

(Code 1970, § 2-291; Ord. of 7-01)

### **Sec. 19-32. Appointment and term.**

*Appointment.* All members of the conservation commission shall be appointed by the mayor. During the month of August of each year, the mayor shall appoint an elector of the city to fill any vacancy arising on the commission.

(Code 1970, § 2-292; Ord. of 7-01; No. 26897-1, 12-11-02)

**Sec. 19-33. Adoption of state law by reference.**

Sections 7-131a and 7-131b of the general statutes, as amended to date and from time to time amended, are hereby made a part of this article as fully as if set forth herein.

(Code 1970, § 2-293)

**Sec. 19-34. Authorized to act as inland wetlands agency.**

The conservation commission, in addition to its other duties and functions, is hereby authorized to act as the inland wetlands agency of the city and shall have all rights and perform all the duties and functions provided for in sections 22a-36 through 22a-45 of the general statutes, as amended, as it may be amended.

(Code 1970, § 2-291.1; Ord. of 7-18-73)

**Sec. 19-35. Inland wetland and watercourse regulations.**

(a) *Title and authority.*

- (1) The inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetland and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forevermore. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provision for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses

and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

- (2) These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the City of New Britain."
- (3) The conservation commission of the city was established in accordance with city ordinance 2-291 adopted in 1964. On July 18, 1973, the conservation commission, by virtue of ordinance 2-291.1 (now [Code section] 19-34) of the New Britain City Ordinances, was given power and responsibility to act as the "inland wetland agency" of the city. These regulations shall implement the purposes and provisions of the Inland Wetland and Watercourses Act in the city.
- (4) These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- (5) The conservation commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the city pursuant to sections 22a-36 to 22a-45, inclusive, of the general statutes, as amended.

(b) *Definitions.* As used in these regulations:

*Act* means the Inland Wetland and Watercourses Act, section 22a-36 through 22a-45 of the general statutes, as amended.

*Agency* means the conservation commission of the city.

*Bogs* are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

*Clear-cutting* means the harvest of timber in a fashion which removes all trees down to a two-inch diameter at breast height.

*Commission member* means a member of the conservation commission of the city.

*Commissioner of Environmental Protection* means the commissioner of the state department of environmental protection.

*Deposit* includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.

*Designated agent* means an individual designated by the agency to carry out its functions and purposes.

*Discharge* means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.

*Disturbing the natural and indigenous character of the land* means that the activity will significantly alter the inland wetland and watercourses by reason of removal or deposition of

material, clear-cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

*Farming* means use of land for the growing of crops, raising of livestock or other agricultural use.

*License* means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the conservation commission.

*Marshes* are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six (6) inches or more in depth are common.

*Material* means any substance, solid or liquid, organic or inorganic, including, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.

*Municipality* means the City of New Britain, Hartford County, Connecticut.

*Nurseries* means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

*Permit* means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the conservation commission.

*Permittee* means the person to whom such permit has been issued.

*Person* means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

*Pollution* means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion resulting from any filling or excavation activity.

*Regulated activity* means any operation within or use of a wetland or watercourse involving removal or deposition of material; or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in subsection (d) of these regulations.

*Regulated area* means any inland wetland or watercourse as defined in these regulations.

*Remove* includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.

*Rendering unclean or impure* means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.



*Significant activity* means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

- (1) Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system;
- (2) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system;
- (3) Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions;
- (4) Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse;
- (5) Any activity which causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area;
- (6) Any activity which causes or has the potential to cause pollution of a wetland or watercourse; or
- (7) Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

*Soil scientist* means an individual duly qualified in accordance with standards set by the office of personnel management (formerly the U.S. Civil Service Commission.)

*Swamps* are areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.

*Submerged lands* means those lands which are inundated by water on a seasonal or more frequent basis.

*Town* means the City of New Britain, Hartford County in the State of Connecticut.

*Waste* means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the town.

*Watercourses* means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35 of the general statutes, as amended.

*Wetlands* means land, including submerged land as defined herein, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the general statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the national cooperative soils survey, as it may be amended from time to time, of the soil conservation service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

(c) *Inventory of regulated areas.*

- (1) *Map.* The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, New Britain, Connecticut," prepared in 1974 delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the town clerk and the city plan department. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by other qualified individuals.
  - (2) *Dispute of designation; petition for map change.* Any property owner who disputes the designation of any part of his or her land as a regulated area on the inland wetlands and watercourses map may petition the agency to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with subsection (n) of these regulations may be required of property owner when the agency requires an accurate delineation of regulated areas.
  - (3) *Inventory, maintenance of records; amendments to map.* The inland wetland agency or its designated agent(s) shall inventory and maintain current records of all regulated areas within the town. The agency may amend its map, from time to time, as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such map amendments are subject to the public hearing process outlined in subsection (n) of these regulations.
- (d) *Permitted uses as of right; nonregulated uses.*
- (1) The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
    - a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three (3) acres or less essential to the farming operation. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
    - b. A residential home (i) for which a building permit has been issued for (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1,

1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of the right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;

- c. Boat anchorage or mooring, not to include dredging or dock construction;
  - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.
  - e. Construction and operation, by water companies as defined by section 16-1 of the general statutes or by municipal water supply systems as provided for in Chapter 102 of the general statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-410 of the general statutes.
- (2) The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
  - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, waterskiing, trapping, hunting, fishing and shell-fishing and cross-country skiing where otherwise legally permitted and regulated.
- (3) All activities in wetlands or watercourses involving filling excavation, dredging, clear-cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this subsection shall required a permit from the agency in accordance with subsection (f) of these regulations
- (4) To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify the agency on a form provided by it, and provide the agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The agency or its designated agent shall rule

that the proposed operation or use is a permitted or a nonregulated use of operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the agency following the meeting at which the request was received. The designated agent for the agency may make such ruling on behalf of the agency at any time.

(e) *Activities regulated by state.*

- (1) In addition to any permit or approval required by the agency, the commissioner of environmental protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
  - a. Construction or modification of any dam pursuant to sections 22a-401 through 22a-410 of the general statutes, as amended;
  - b. Construction or placement of any obstruction within stream channel encroachment lines pursuant to sections 22a-342 through 22a-349 of the general statutes, as amended;
  - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the general statutes, as amended;
  - d. Diversion of water in excess of fifty thousand (50,000) gallons per day or any surface waters of the state where the tributary watershed area above the point of diversion is one hundred (100) acres or larger pursuant to sections 22a-365 through 22a-378 of the general statutes, as amended;
  - e. Dischargers into the waters of the state pursuant to sections 22a-430 of the general statutes, as amended;
  - f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- (2) The commissioner of environmental protection shall have exclusive jurisdiction over regulated activities and other activities, in or affecting wetlands or watercourses, undertaken, by any department, agency or instrumentality of the state, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the wetland agency of the municipality within which such wetland is located or (2) thirty-five (35) days after receipt by the commissioner of such application, whichever occurs first.
- (3) The commissioner of environmental protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the general statutes.

(f) *Regulated activities to be licensed; inland wetlands permit required.* No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the conservation commission of the city.

The agency shall regulate any operation within or use of a wetland or watercourse

involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or nonregulated pursuant to subsection (d) of these regulations.

Any person found to be conducting or maintaining a regulated activity without the prior authorization of the conservation commission of the city or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in subsection of these regulations and any other remedies as provided by law.

(g) *Application requirements.*

- (1) *Form.* Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "City of New Britain Conservation Commission--Application for permit." An application shall include an application form and such information as prescribed by subsection (g)(4) and, in the case of a significant activity, by subsection (g)(5) herein. Application forms may be obtained in the offices of the city plan department in the city.
- (2) *Information required generally.* All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- (3) *Reapplication meeting.* The agency and the applicant may hold a preapplication meeting to determine whether or not the proposed application involves a significant activity. Whenever possible the determination relative to significant activities should be made at the preapplication meeting. The agency should state the reasons why the activity was deemed significant in writing.
- (4) *Specific information.* All applications shall include the following information in writing:
  - a. The applicant's name, home and business address and telephone numbers;
  - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
  - c. Applicant's interest in the land;
  - d. The geographical location of the property which is to be affected by the proposed activity, including, but not limited to, a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and vegetation;
  - e. The purpose and a description of the proposed activity;
  - f. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen;
  - g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses;
  - h. Names and addresses of adjacent property owners;
  - i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit

through deception or through inaccurate or misleading information;

- j. Authorization for the commissioners and agents of the agency to inspect the property, at reasonable times, both before and after a final decision has been issued;
- k. Any other information the agency deems necessary to the understanding of what the applicant is proposing;
- l. Submission of the appropriate filing fee based on the fee schedule established in subsection (g)(9) herein.

(5) *Additional information.* If the proposed activity involves a significant activity as determined by the agency and defined in subsection (b) of these regulations, additional information, based on the nature and anticipated effects of the activity, including, but not limited to, the following is required:

- a. Site plans for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer or landscape architect registered in the state or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;
- c. Mapping of soil types consistent with the categories established by the national cooperative soil survey of the U.S. Soil Conservation Service (the agency may require the applicant to have the wetlands delineated in the field by a soil scientist and that the filed delineation be incorporated onto the site plans);
- d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

- (6) *Certification required of applicant.* The applicant shall certify whether:
- a. Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of an adjoining municipality;
  - b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
  - d. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- (7) *Copies of application to be submitted.* Four (4) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the conservation commission.
- (8) *Extension of expiration date of previously issued permit.* Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the agency at least sixty-five (65) days prior to the expiration date for the permit in accordance with subsections (h)(4) through (h)(8) of these regulations. Any application for amendment, renewal or extension shall be made in accordance with this section provided:
- a. The application may incorporate by reference the documentation and record of the original application;
  - b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
  - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
  - d. The agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and schedule for completing the activities authorized in the permit.
  - e. The agency shall evaluate the application pursuant to subsection (j) of these regulations and grant the application as filed, grant it with any terms or limitations, or deny it.
- (9) *Fees.* The fee for the filing of an application for an inland wetlands permit shall be fifty dollars (\$50.00). An additional fee of one hundred dollars (\$100.00) shall be charged for any application which requires a public hearing. The purpose of the additional fee is to defray the cost of publication.

(h) *Application procedures.*

- (1) Applications and copies of these regulations shall be available in the office of city plan. All applications together with filing fees shall be filed and maintained with the office of city plan.
- (2) In the case of any application where any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of Berlin, Newington, Farmington, Plainville, or Southington, the applicant shall give written notice, in accordance with Public Act 87-533, of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetland agency on the same day of filing an inland wetland permit application with the conservation commission. Documentation of such notice shall be provided to the conservation commission.
- (3) The agency shall, in accordance with Public Act 87-307, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
  - a. Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of an adjoining municipality;
  - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
  - d. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be made by registered mail and shall be mailed within seven (7) days of the date of receipt of the application. For purposes of this subsection, the city plan department shall be the designated agent of the agency and shall prepare and deliver all applicable notices.

- (4) The date of receipt of any application shall be the day of the next regularly scheduled meeting of the agency immediately following the day of submission to the agency, provided such meeting is no earlier than six (6) business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.
- (5) At any time during the review period, the agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity. (The agency shall not exceed the required sixty-five-day time limit in taking action on an application pending the receipt of additional information as stated in subsection (k)(2) of these regulations.)
- (6) All applications shall be open for public inspection.
- (7) Incomplete applications may be denied.

(i) *Public hearings.*

- (1) *When required.* A public hearing shall be held on all applications involving a



significant activity. A public hearing may be held on applications which do not involve significant activities if the agency determines it is in the public interest. A petition containing the signatures of twenty-five (25) or more persons shall be considered as adequate public interest for the purposes of scheduling a public hearing. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.

- (2) *Publication of notice.* Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland add watercourse is located, as well as being posted on the City of New Britain website.
- (3) *Delivery of notice.* Notice of the public hearing shall be mailed to the owner(s) of record of abutting land no less than fifteen (15) days prior to the day of the hearing. For purposes of this subsection, the city plan department shall be the designated agent of the agency and shall prepare and deliver all applicable notices.
- (4) *Notice of pendency of application.* In the case of any application which is subject to the notification provisions of subsection (h)(3) of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipalities has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

(j) *Considerations for decision.*

- (1) The agency may consider the following in making its decision on an application:
  - a. The application and its supporting documentation;
  - b. Public comments, evidence and testimony from a public hearing;
  - c. Reports from other agencies and commissions including but, not limited to, the City of New Britain:
    1. Planning commission and city plan department.
    2. Planning, zoning, or planning and zoning commissions.
    3. Building official.
    4. Health officer.
    5. Engineering department.
    6. Public works department.
  - d. The agency may also consider comments on any application from the Hartford County Soil and Water Conservation District, the Central Connecticut Regional Planning Agency or other regional organizations (i.e. council of elected officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
  - e. Nonreceipt of comments from agencies and commissions listed in (j)(1)c

above within the prescribed time shall neither delay nor prejudice the decision of the agency.

- (2) Standards and criteria for decision. The agency shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:
- a. The environmental impact of the proposed action, including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
  - b. The alternatives to the proposed action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
  - c. The relationship between the short term uses of the environment and the maintenance and enhancement of long term productivity, including consideration of the extent to which the proposed activity involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options.
  - d. Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and watercourses of the state are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses.
  - e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wet land plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.
  - f. The suitability of the activity to the area for which it is proposed. This requires a balancing of the need for the economic growth of the city and the use of its land, with the need to protect its environment and ecology for the people of the city and the benefit of generations yet unborn.

- g. Measures which would mitigate the impact of any aspect of the proposed regulated activit[ies]. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.
  - (3) In the case of any application which received a public hearing, a permit shall not be issued unless the agency finds that a feasible and prudent alternative does not exist. In making this finding, the agency shall consider the facts and circumstances set forth in this subsection. This finding and the reasons therefor shall be stated on the record in the decision of the agency.
  - (4) In reaching its decision on any application after a public hearing, the agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the agency in its decision. However, the agency is not precluded from seeking advice from its own experts on information already in the record of the public hearing.
  - (5) The agency is authorized to designate the city plan department of the city as its agent for purposes of providing technical and professional information to the agency concerning any inland wetland application.
- (k) *Decision process; permit issuance or denial; duration and renewal.*
- (1) The agency may grant the application as filed; grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or deny it.
  - (2) No later than sixty-five (65) days after receipt of an application, the agency may hold a public hearing on such application. The hearing shall be completed within forty-five (45) days of its commencement and action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. (The agency does not have the authority to table or reject an application for incompleteness. An application deemed incomplete by the agency must either be withdrawn by the applicant or denied by the agency.)
  - (3) The agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
  - (4) The agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the agency shall cause notice of its order in the issuance or denial of the permit, in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. A copy of all agency decisions shall be forwarded to the commissioner of environmental protection in such a form as prescribed by the commissioner. A copy of all agency decisions

shall be placed on file in the office of the city plan and a copy forwarded to the town clerk. All notification under this subsection shall be made by the city plan department at the direction of the agency.

- (5) If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the city planning commission, zoning commission, or zoning board of appeals within fifteen (15) days of the date of the decision.
- (6) If the agency denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the agency's satisfaction. The agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the agency shall be equivalent to the denial of an application for the purposes of appeal.
- (7) If the agency denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- (8) The duration of any permit shall be for three (3) years unless otherwise specified in the permit or extended by the agency. Unless it is renewed by the agency, the permit shall expire if the activity authorized therein not initiated within one year from the date the permit was issued. Permit renewal and extension shall be at the discretion of the agency and may be subject to the calling of an additional public hearing. All permits shall expire upon the completion of the acts specified therein.
- (9) No permit shall be assigned or transferred without the written permission of the agency.
- (10) If a bond or insurance is required in accordance with subsection (e) of these regulations, no permit shall be issued until such bond or insurance is provided.
- (11) General provisions in the issuance of all permits:
  - a. In evaluating applications in which the agency relied in whole or in part on information provided the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
  - b. All permits issued by the agency are subject to and do not derogate any present or future rights or powers of the agency or the city, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
  - c. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.

d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

(l) *Bond and insurance.* Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the agency, be required to file a bond with such surety in such amount and in a form approved by the agency. The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit. The agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount to be determined by the agency commensurate with the regulated activity.

(m) *Enforcement.*

(1) The agency may appoint an agent or agents to act in its behalf with the authority to inspect property except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.

(2) As a condition of a permit, the agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

(3) If the agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the agency or its duly authorized agent may:

a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The agency shall consider the facts presented at the hearing and, within ten (10) days of the completion of the hearing, notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the general statutes, as amended;

b. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking any permit, the agency shall issue notice to the permittee, personally or by certified mail, return receipt

requested, setting forth the facts or conduct which warrants the intended action. At the public hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the agency's decision to suspend, revoke, or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision;

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The agency may request that the individual appear at the next regularly scheduled meeting of the agency to discuss the unauthorized activity, and/or provide a written reply to the notice or filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection (m)a. or other enforcement proceedings as provided by law.

- (4) For purposes of this subsection, the agency has designated the city plan department and/or the department of licenses, permits and inspections to act as its designated agent and to make inspections and issue reports to the agency at the request of the agency. The city plan department and department of licenses, permits and inspections shall bring to the attention of the agency any possible violations of these regulations which are discovered during the course of their day-to-day activities.

(n) *Amendments.*

- (1) These regulations and the inland wetlands and watercourses map for the city may be amended, from time to time, by the agency in accordance with changes in the general statutes or regulations of the state department of environmental protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- (2) These regulations and the city inland wetlands and watercourses map shall be amended in the manner specified in section 22a-42a of the general statutes, as amended. The agency shall provide the commissioner of environmental protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the agency regulations.
- (3) Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, New Britain Connecticut" shall contain at least the following information:
  - a. The applicant's name, address and telephone number;
  - b. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
  - c. Applicant's interest in the land;

- d. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
  - e. The reasons for the requested action;
  - f. The names and addresses of adjacent property owners; and
  - g. A map showing proposed development of the property.
- (4) The conservation commission may require the property owner to present documentation by a soil scientist that the land in question does not have a soil type classified by the national cooperative soils survey as poorly drained, very poorly drained, alluvial, or floodplain. Such documentation includes a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
  - (5) Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
  - (6) A public hearing shall be held on petitions to amend the inland wetland and watercourses map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than twenty-five (25) days nor less than fifteen (15) days, and the last not less than two (2) days, before such hearing, as well as being posted on the City of New Britain website. A copy of such proposed boundary change shall be filed in the office of the town clerk, for public inspection at least ten (10) days before such hearing.
  - (7) Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the agency shall hold a public hearing to consider the petition. The agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The public hearing shall be concluded within forty-five (45) days.
  - (8) The agency shall make its decision and state, in writing, the reasons why the change in the inland wetland and watercourses map was made.
- (o) *Appeals; notice.* Appeal on actions of the agency shall be made in accordance with the provisions of section 22a-43 of the general statutes, as amended. Notice of such appeal shall be served upon the agency and the commissioner of environmental protection.
  - (p) *Conflict and severance;* If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
  - (q) *Other permits.* Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the city, the state and the Government of the United States, including any approval required by the state department of environmental protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

- (r) *Staff-assistance.* For purposes of carrying out these regulations, the agency shall be authorized to designate the city plan department as its designated agent to provide clerical and secretarial assistance to the agency.
- (s) *Effective date of regulations* These regulations, including the inland wetlands and water courses map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the office of the town clerk and publication of a notice of such action in a newspaper having general circulation in the city.

(Ord. of 1-89, §§ 1--19; Ord. No. 28482-2, 5-5-05)

**Cross references:** Building and building regulations, Ch. 7; flood and erosion control, Ch. 9; licenses, permits and miscellaneous business regulations, Ch. 14; utilities, Ch. 23.

Secs. 19-36--19-39. Reserved.

#### **ARTICLE IV. HOUSING SITE DEVELOPMENT AGENCY\***

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\*Housing, Ch. 13.

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##### **Sec. 19-40. Designation of city improvement commission.**

Pursuant to section 8-216b of the Connecticut General Statutes, the city improvement commission is designated as the New Britain Housing Site Development Agency.

(Ord. of 6-90)

##### **Sec. 19-41. Development projects.**

The New Britain Housing Development Agency is designated, pursuant to section 8-216b of the Connecticut General Statutes, to carry out the following development projects and is authorized to enter into contracts with the state commissioner of housing, or its successor, to provide financial assistance in the form of a grant-in-aid to carry out such projects:

Beaver Street project.

(Ord. of 6-90)

Secs. 19-42--19-44. Reserved.

#### **ARTICLE V. ECONOMIC DEVELOPMENT REVOLVING LOAN FUND**

##### **Sec. 19-45. Declaration of policy.**

It is hereby found and declared that the maintenance and continued development of commercial properties is important to the economic welfare of the City of New Britain and to the retention and creation of job opportunities within the city; that an economic development



revolving loan fund will enable the City of New Britain to invest in commercial properties and provide seed funding for economic development; and that this process will enable the City of New Britain to sell these commercial properties and ensure that said properties are properly maintained and developed.

(Ord. of 10-00)

#### **Sec. 19-46. Procedure for loan request.**

The mayor shall present to the common council a written statement articulating the policy objectives for the commercial project and economic benefit to the City of New Britain. Said statement shall include the specific commercial project and contemplated use, the amount of loan requested, a detail projected budget and loan payment schedule. A vote of two-thirds (2/3) of the members of the common council present and voting is required to approve the mayor's request for a loan. The request for funding should be approved only if the proposed project is intended to maintain or increase the value of the fund.

(Ord. of 10-00)

#### **Sec. 19-47. Use of fund.**

The economic development revolving loan fund shall be established by the director of finance and funded by the common council. The fund can not be used to supplement the general fund or for any other expenditure which is not related to the goals and objectives of the economic development revolving loan fund except that the director of finance may invest undesignated or unencumbered monies on a short term basis at his discretion. The fund can not be used as a grant for developers, can not be dissolved and no more than fifty (50) percent of the money in the fund can be used for any one project.

(Ord. of 10-00)

#### **Sec. 19-48. Reimbursement to fund.**

All money loaned to a designated economic development project must be returned in its entirety to the fund in accordance with the terms of the loan payment schedule approved by the common council.

(Ord. of 10-00)

#### **Sec. 19-49. Audit.**

The annual audit conducted by the City of New Britain shall include a detailing [detailed] accounting of this fund.

(Ord. of 10-00)

### **ARTICLE VI. BUILDING ZONE REGULATIONS**

#### **Sec. 19-50. Establishment of building districts.**

For the purpose of promoting health, safety, morals or the general welfare of the

community or the comfort, happiness and prosperity of the inhabitants thereof, the common council of the City of New Britain is empowered to establish building districts and restrictions. For and in each of such districts, said common council may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot area that may be occupied, the size of yards, courts and other open spaces, the density of population and the number of families per building and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

(Ord. of 7-01)

#### **Sec. 19-51. Restrictions on use; uniformity.**

For the aforesaid purpose the common council may divide the City of New Britain into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings, structures and use of land throughout each district, but the regulations in one district may differ from those in another district.

(Ord. of 7-01)

#### **Sec. 19-52. Reserved.**

**Editor's note:** Ord. No. 27946-1, § 2, adopted Apr. 28, 2004, repealed § 19-52, which pertained to public hearing before sale or lease of park land. For complete derivation, see the Code Comparative Table at the end of this volume.

#### **Sec. 19-53. Public hearing.**

The common council of the City of New Britain shall, in accordance with provisions herein contained, provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed; but no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest, including all citizens, shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement appearing on the City of New Britain website, as well as in a newspaper having a substantial circulation in said city at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. By requiring the applicant to erect a white with black lettering sign or signs measuring not less than three (3) feet long and two (2) feet wide, which shall be prominently displayed on the premises facing each public street on which the property abuts, giving notice that an application for an appeal or special exception use or a change in the zoning map is pending, and the date, time and place where the public hearing will be held. The sign shall not be set back more than ten (10) feet from the property line and shall not be less than two (2) or more than six (6) feet above the grade at the property line. The sign shall be made of one-eighths inch pressed board or other durable material. It shall be displayed for a period of not less than fifteen (15) days immediately preceding the public hearing date or any adjourned date. In all cases, regardless of the origin of the proposed zone change, the proponents shall, in addition, give written notice of the proposed

zone change to all property owners within five hundred (500) feet of the boundary lines of the property subject of the petition within the city limits. The applicant shall file an affidavit that he has complied with the provisions of this section.

Notice of the final decision of such hearing or hearings shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in said city.

(Ord. of 7-01; Ord. No. 28482-2, 5-5-05)

#### **Sec. 19-54. Amendments and changes.**

Such regulations restrictions and boundaries may, from time to time, be amended, supplemented, changed, modified or repealed, but only after notice and public hearing, as hereinbefore provided for the initial districts and regulations. (Proposed zoning regulations or boundaries or changes thereof shall be referred to the city plan commission (for a report) at least thirty (30) days prior to the date assigned for a public hearing to be held thereon.) The failure of the city plan commission to report prior to or at the hearing shall be taken as approval of such proposals. A statement of the vote of the city plan commission approving, disapproving or proposing a modification of such proposal shall be publicly read at any public hearing held thereon. The full report of the city plan commission regarding such proposal shall include the result of the commission's vote thereon and shall be incorporated into the records of any public hearing held thereon. In case of an unfavorable report of the city plan commission or a report of the city plan commission recommending modification, such proposed change shall not become effective except by a vote of not less than two-thirds of the entire membership of the common council. In case of a report of the city plan commission recommending a modification in the proposal, the common council may modify the proposal as recommended by the commission but such modified proposal shall not be adopted until after notice and public hearing as herein before provided for the initial districts and regulations. In case of a protest against any such change filed by the owners of twenty (20) per centum or more either of the areas of the lots included in such proposed change, or of areas immediately contiguous thereto and within five hundred (500) feet therefrom, not including publicly-owned areas in any case, such proposed change shall not become effective except by a vote of not less than three-fourths ( 2/3) of the entire membership of the common council.hn0;(Ord. of 7-01)

Secs. 19-55--19-70. Reserved.

### **ARTICLE VII. SUBDIVISIONS**

#### **Sec. 19-71. Approval of subdivision plans.**

No subdivision of land shall be made until a map of such subdivision has been approved by the commission. All plans for subdivision shall be submitted to the commission in accordance with its regulations with an application in a form to be prescribed by it. The commission may hold a public hearing regarding any subdivision proposal if, in its judgment, the specific circumstances require such action. No plan of resubdivision shall be acted upon by the commission without a public hearing. Notice of the public hearing shall be given not less than seven (7) days before the date of the hearing by publication once in a daily newspaper of general circulation in the city, by posting public hearing on the City of New Britain website, and by sending a copy thereof by registered mail to the applicant. The commission shall approve,

modify and approve, or disapprove a subdivision plan within sixty (60) days after the submission of the final plan thereof. The failure of the commission to act thereon shall be considered as an approval, and a certificate to that effect shall be issued by the commission on demand, provided an extension of this period may be had with the consent of the applicant. The grounds for disapproval shall be stated in the records of the commission.

(Ord. of 7-01; Ord. No. 28482-2, 5-5-05)

#### **Sec. 19-72. Definitions.**

*Subdivision* means the division of a tract or parcel of land into three (3) or more parts or lots for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes and includes resubdivision.

*Resubdivision* means a change in a map of an approved or recorded subdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use, or (c) diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

(Ord. of 7-01)

#### **Sec. 19-73. Penalties.**

Any person, firm or corporation making any subdivision of land without the approval of the commission shall be fined not more than two hundred dollars (\$200.00) for each lot sold or offered for sale or so subdivided.

(Ord. of 7-01)

#### **Sec. 19-74. Filing of plans.**

All plans for subdivision shall, upon approval, be filed or recorded in the office of the town clerk, and any plan, not so filed or recorded within ninety (90) days following its approval by the commission or within ninety (90) days of the date upon which such plan is taken as approved by reason of the failure of the commission to act, shall become null and void. No such plan shall be recorded or filed by the town clerk or other officer duly authorized to record or file plans until its approval has been endorsed thereon, and the filing or recording of a subdivision plan without such approval shall be void.

(Ord. of 7-01)

#### **Sec. 19-75. Adoption of regulations.**

Before exercising the powers granted in this article, the commission shall adopt regulations covering the subdivision of land. No such regulations shall become effective until after a public hearing, notice of time, place and purpose of which shall be given by publication in a daily newspaper of general circulation, as well as being posted on the City of New Britain website, in the city at least seven (7) days prior to the date of such hearing. Such regulation shall provide that the land to be subdivided shall be of such character that it can be used for

building purposes without danger to health, that proper provision shall be made for water supply, drainage and sewerage, that the proposed streets are in harmony with existing or proposed principal thoroughfares shown in the plan of development as described in section 3102 of the Charter, especially in regard to safe intersections with such thoroughfares, and so arranged and of such width as to provide an adequate and convenient system for present and prospective traffic needs, and, in places deemed proper by the planning commission, open spaces for parks and playgrounds shall be shown on the subdivision plan. The commission may also prescribe the extent to which and the manner in which streets shall be graded and improved and public utilities and services provided, and in lieu of the completion of such work and installments previous to the final approval of a plan the commission may accept a bond in an amount calculated to cover the cost of the specified improvements as estimated by the city engineer or his authorized agent and with surety and conditions satisfactory to its securing to the municipality the actual finished construction and installation of such improvements and utilities within a period specified in the bond.

(Ord. No. 28482-2, 5-5-05)

Secs. 19-76--19-100. Reserved.

## **ARTICLE VIII. ZONING BOARD OF APPEALS**

### **Sec. 19-101. Membership.**

There shall be in said city a zoning board of appeals which shall consist of seven (7) members, electors of said city, not more than four (4) of whom shall belong to any one political party. During the month of April of each year the mayor shall appoint one (1) or more members as the terms expire or vacancies occur for a four-year term starting on the succeeding May 1. Appointments to fill vacancies shall be for the unexpired portion of the term. All appointments to said board of appeals shall be subject to the approval of the common council. Any member of the board may be removed for cause after a public hearing, by a two-thirds ( 2/3) vote of the entire membership of the common council.

(Ord. of 7-01; Ord. No. 27609-1, 9-10-03)

### **Sec. 19-102. Reserve members.**

There shall also be appointed by the mayor during the month of April, in each year, subject to the approval of the common council, to take office from the succeeding first day of May, for the term of one (1) year, three (3) reserve members of the board of adjustment, electors of said city. Should any member of the zoning board of appeals be unable to act, or be disqualified in any particular matter, at any time, the chairman or acting chairman of the zoning board of appeals may designate a reserve member to act in his or her place, who shall have all the powers and duties of a member of the zoning board of appeals during the period of such inability to act or of such disqualification.

(Ord. of 7-01)

### **Sec. 19-103. Powers of board.**

The zoning board of appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of any ordinance adopted pursuant to this chapter;
- (2) To hear and decide special exceptions to the terms of any such ordinance, in accordance with rules and limitations therein contained;
- (3) To authorize upon appeal in specific cases such variance from the terms of such ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of such ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(Ord. of 7-01)

#### **Sec. 19-104. Rules; meetings; minutes.**

The zoning board of appeals shall adopt rules in accordance with the provisions of any ordinance of the common council adopted pursuant to the Charter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(Ord. of 7-01)

#### **Sec. 19-105. Appeals to board.**

Appeals to the zoning board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer charged with the enforcement of the provisions of any ordinance enacted under the authority of the Charter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with such administrative officer and with the board a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the board all the papers constituting the record of the action upon which the appeal was taken. Notice of appeal shall automatically suspend any construction or use of property involved, unless the administrative officer shall certify to the zoning board of appeals that, by reason of facts stated in such certificate, such suspension will cause imminent peril to life or property, and also unless upon receipt of such certificate the board shall direct such construction or use as may be necessary to eliminate such peril. The board shall fix a reasonable time for the hearing of the appeal, and give due notice thereof to the parties in interest. Notice of the time and place of such hearing shall be posted on the City of New Britain website, as well as being published in a newspaper having a substantial circulation in said city at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before such hearing. Said board shall decide such appeal within sixty (60) days after the hearing. Upon the hearing any

party may appear in person or by agent or by attorney.

(Ord. of 7-01; Ord. No. 28482-2, 5-5-05)

#### **Sec. 19-106. Affirmance or reversal; vote.**

In exercising the above-mentioned powers the board may, in conformity with the provisions of the Charter and of any ordinances enacted thereunder, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative officer. The concurring vote of five (5) members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer, or to decide in favor of the applicant as against the city, on any matter upon which it is required to pass.

(Ord. of 7-01)

#### **Sec. 19-107. Appeals from board; stay; costs.**

Any person or taxpayer or any officer, department, board or bureau of the municipality, jointly or severally, aggrieved by any decision of the zoning board of appeals, may, within fifteen (15) days of the filing of such decision, make application in the nature of an appeal therefrom to the court of common pleas for Hartford County setting forth that such decision is illegal, in whole or in part and specifying the grounds of such illegality, which application shall be accompanied by a citation to the said board to appear before such court. Such citation shall be signed by the same authority and such appeal shall be returnable at the same time and served and returned in the same manner as is required in the case of a summons in a civil action. Such appeal shall stay proceedings upon the decision appealed from, but the court, on application, on notice to the board and on due cause shown, may provide that such appeal shall not so operate. If, upon such appeal, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a committee to take such evidence. The court may reverse or affirm, wholly or partly, or modify the decision appealed from or may review the decision appealed from and refer the matter back to the zoning board of appeals with instructions as to its further action in the premises. The court shall try such appeals de novo. Costs shall not be allowed against the city unless it shall appear to the court that the board acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. The above provisions shall not deprive any person aggrieved by any decision of the zoning board of appeals from proceeding by any other civil action permitted by the common law or statutes of this state, in lieu of the above appeal.

The common council may also provide by ordinance that the zoning board of appeals may grant special exceptions to the terms of the zoning ordinance and likewise permits under such exceptions, as to the construction and maintenance of buildings and the use of property in the several zoning districts of the city in all cases in which the conditions of real estate relating to zoning are not the same nor substantially the same throughout the entire zoning district, or if the execution of the law strictly presents practical difficulties, or if by reason of growth, change, development or other circumstances the granting of the exception or permit shall, in the judgment of said board, be not detrimental to the zoning district, nor to a contiguous district. The common council may also provide that the zoning board of appeals shall have the power to grant such exceptions or permits, subject to such reasonable terms and conditions as said board may deem in any specific case to be appropriate or necessary. All decisions of the zoning

board of appeals pursuant to the powers granted to it by this section shall be final, without approval of the common council.

(Ord. of 7-01)

## **Chapter 20 POLICE\***

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**\*Charter references:** Board of police commissioners, § 1901; police department, §§ 1901--1906.

**Cross references:** Police guards required for street obstructions, etc., § 21-33.

**State law references:** Board of police commissioners, G.S. § 7-274; meetings of commission, G.S. § 7-275; police departments, G.S. §§ 7-274--7-294f.

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- Art. I. In General, §§ 20-1--20-20
- Art. II. Police Department, §§ 20-21--20-79
  - Div. 1. Generally, §§ 20-21--20-24
  - Div. 1A. The Police Commission, §§ 21-25--21-30
  - Div. 2. Duties of Officers, §§ 20-31--20-40
  - Div. 3. Duties of All Policemen, §§ 20-41--20-50
  - Div. 4. Supernumeraries, §§ 20-51--20-69
  - Div. 5. Special Police Duty, §§ 20-70--20-76
  - Div. 6. Volunteers in Police Substations, §§ 20-77--20-79
- Art. III. Fee for Second Responses, § 20-80

## **ARTICLE I. IN GENERAL**

### **Sec. 20-1. Unauthorized use of police call box; possession of key.**

- (a) No person shall open any signal-box connected with the police alarm telegraph, except by the authority of and with the key furnished by the chief of police.
- (b) No person shall have in his possession any signal-box key without permission from the chief of police.

(Code 1970, § 15-16)

Secs. 20-2--20-20. Reserved.

## **ARTICLE II. POLICE DEPARTMENT**

### **DIVISION 1. GENERALLY**

#### **Sec. 20-21. Composition.**

The police department shall consist of a chief of police, and such other officers and employees as may be determined by the council and civil service commission from time to time.

(Code 1970, § 2-93)